

BARSHAY SANDERS, PLLC

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Attorneys for Plaintiff Our File No.: 108931

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

FERNANDO J PADILLA,

Docket No:

15

3531

Plaintiff,

COMPLAINT

vs.

JURY TRIAL DEMANDED

MONARCH RECOVERY MANAGEMENT, INC.,

Defendant.

FERNANDO J PADILLA (hereinafter referred to as "Plaintiff"), by and through the undersigned counsel, complains, states and alleges against MONARCH RECOVERY MANAGEMENT, INC. (hereinafter referred to as "Defendant"), as follows:

INTRODUCTION

1. This action seeks to recover for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq., ("FDCPA.").

JURISDICTION AND VENUE

- 2. This Court has federal subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 1692k(d).
- 3. This Court has personal jurisdiction over Defendant because Defendant maintains its principal place of business in Pennsylvania.

- 4. Venue is proper under 28 U.S.C. §1391(b) because Defendant resides in this Judicial District and/or because a substantial part of the events or omissions giving rise to this claim occurred in this Judicial District.
- 5. At all relevant times, Defendant conducted business within the State of Pennsylvania.

PARTIES

- 6. Plaintiff is an individual who is a citizen of the State of New York.
- 7. Plaintiff, a "consumer" as defined by 15 U.S.C. § 1692a(3), is allegedly obligated to pay a debt.
- 8. On information and belief, Defendant's principal place of business is located in Philadelphia, Pennsylvania.
- 9. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.
- 10. Defendant is a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, and is therefore a "debt collector" as defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS

- 11. Plaintiff's alleged debt was primarily for personal, family or household purposes and is therefore a "debt" as defined by 15 U.S.C. § 1692a(5).
- 12. Sometime after the incurrence of the debt, but before the initiation of this action, Plaintiff is alleged to have fallen behind on payments allegedly owed on the alleged debt.
- 13. At a time known only to Defendant, Plaintiff's alleged debt was assigned or otherwise transferred to Defendant for collection.
- 14. In its efforts to collect the alleged debt, Defendant contacted Plaintiff by written correspondence. ("Exhibit 1.")
- 15. Defendant's written correspondence to Plaintiff is a "communication" as defined by 15 U.S.C. § 1692a(2).
- 16. As set forth in the following Counts, Defendant's communication violated the FDCPA.

FIRST COUNT Violation of 15 U.S.C. § 1692f Disclosure of Plaintiff's Account Number

- 17. Plaintiff repeats and realleges the foregoing paragraphs as if fully restated herein.
- 18. 15 U.S.C. § 1692f provides a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt.
- 19. 15 U.S.C. § 1692f(8) limits the language and symbols that a debt collector may place on envelopes it sends to debtors.
- 20. 15 U.S.C. § 1692f(8) prohibits a debt collector from using any language or symbols on the envelope, other than the debt collector's address, when communicating with a debtor by mail, except that a debt collector may place its business name on the envelope if such name does not indicate that the debt collector is in the debt collection business.
- 21. 15 U.S.C. § 1692f(8)'s prohibition applies to language and symbols both on the envelope, and language and symbols visible through any glassine window of the envelope. See, Douglass v. Convergent Outsourcing, 765 F.3d 299 (3rd Cir 2014).
- 22. 15 U.S.C. § 1692f(8) prohibits a debt collector's disclosure of the debtor's account number on the envelope. *Id*.
- 23. 15 U.S.C. § 1692f(8) prohibits a debt collector's disclosure of the debtor's account number by making such visible through any glassine window of the envelope. *Id*.
- 24. Defendant disclosed Plaintiff's account number in its mailing to Plaintiff by placing such on the envelope, or making such visible through the glassine window of the envelope.
- 25. Defendant has violated § 1692f by disclosing Plaintiff's account number in its mailing to Plaintiff.

JURY DEMAND

26. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

a. Statutory damages of \$1,000.00 against Defendant pursuant to 15 U.S.C. § 1692k; and

- b. Plaintiff's attorneys' fees pursuant to 15 U.S.C. § 1692k; and
- c. Plaintiff's actual damages; and
- d. Plaintiff's costs; all together with
- e. Such other relief that the Court determines is just and proper.

DATED: May 29, 2015

BARSHAY SANDERS, PLLC

By:

Melissa A. Pirillo

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Tel: (516) 203-7600 Fax: (516) 706-5055

ConsumerRights@BarshaySanders.com

Attorneys for Plaintiff
Our File No.: 108931

EXHIBIT 1

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10965 Decatur Road Philadelphia PA 19154-3210 RETURN SERVICE REQUESTED

October 21, 2014

FERNANDO J PADILLA 266 Parkwood St Ronkonkoma NY 11779-5961 Recovery Management, Inc.

Account #: 5729

Monarch File #: 6175

Total Balance as of 21 ØCT 2014: \$12077.41

Make Check Payable to: Citibank

MONARCH RECOVERY MANAGEMENT, INC. P.O. BOX 16119 PHILADELPHIA PA 19114-0589

Pay Online: ACH accepted https://mrm.webview.com

* Detach and Return Top Portion to Expedite Your Account *

	A CALL	CCOUNT INFORMATION
Date of letter:	October 21, 2014	Creditor: CITIBANK, N.A.
Account #:	*********5729	
Monarch File #:	6175	Additional Information: THE HOME DEPOT
Total Balance as of	21 OCT 2014: \$12077.41	

This is to advise you that your account has been transferred to our office for collection by CITIBANK, N.A. .

As of the date of this letter, you owe \$12077.41. The amount due on the day you pay may be greater as interest may be added by the creditor. Hence, if you pay the total balance due shown above, an adjustment may be necessary after we receive your payment.

If you choose not to pay the balance in full, the creditor is willing to accept a settlement of 45% of the total balance due, which is *** \$5434.83 *** as of the date of this letter. Please note this settlement amount will change if the total balance due changes. This settlement offer will expire on **December 20**, **2014**. This offer does not cancel nor override your dispute rights set forth below.

Whenever \$600.00 or more in principal of a debt is discharged as a result of settling a debt for less than the balance owing, the creditor may be required to report the amount of the debt discharged to the Internal Revenue Service on a 1099C form, a copy of which would be mailed to you by the creditor. If you are uncertain of the legal or tax consequences, we encourage you to consult your legal or tax advisor.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt, or any portion thereof, this office will assume that this debt is valid. If you notify this office in writing within 30 days from receipt of this notice that the debt, or any portion thereof, is disputed, this office will obtain verification of the debt or a copy of the judgment against the consumer and a copy of such verification or judgment and mail it to you. If you request of this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt by a debt collector to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector. If you pay us by check or check by phone, your transaction will be converted to an ACH. When you provide a check as payment, you authorize us, either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Additionally, the check writer authorizes Monarch or its agent to re-present the check electronically if the check is returned for insufficient or uncollected funds.

If you have a complaint about the way we are collecting this debt, please write to our Compliance Center at 10965 Decatur Road, Philadelphia, PA 19154, email us at compliance@monarchrm.com, or call us toll-free at 1-800-220-0605 ext. 2261, between 9:00 A.M. Eastern Time and 5:00 P.M. Eastern Time Monday-Friday.

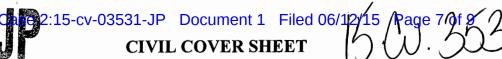
Yours truly

MATT FITHIAN DEBT COLLECTOR EXT 2730

New York City Department of Consumer Affairs License #1345051 and #1345050.

392CZMORM01_T45CIT

JS 44 (Rev. 12/12)



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the

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UNITED STATES DISTRICT COURT

	UNITED STATES DI	15 3	53
OR THE EASTERN DISTRICT OF PERSONNEL OF PERS	NNSYLVANIA — DESIGNATION FORM	to be used by counsel to indicate the category of the case for the	purpose
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ddress of Defendant: 10965 Decatur Roa	d, PHILADELPHIA, Pennsylvania 19154		_,,
ace of Accident, Incident or Transaction:	(Use Reverse Side F		
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(Attach two copies of the Disclosure State	ement Form in accordance with Fed.R.Civ.P. 7	(.1(a)) Yes □ No 🗷	
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ELATED CASE, IF ANY:		\bigcirc	
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Donathin and families it	fact as assument of the same to said	Yes No 🗷	
Does this case involve the same issue of action in this court?	ract or grow out of the same transaction as a p	prior suit pending or within one year previously terminated	
		Yes 🗖 No 🗷	
•	fringement of a patent already in suit or any ea	rlier numbered case pending or within one year previously	
terminated action in this court?		Yes No 🗷	
Is this case a second or successive habea	s corpus, social security appeal, or pro se civil	rights case filed by the same individual?	
VIL: (Place ✓ in ONE CATEGORY ON	LY)	Yes Li No Es	
Federal Question Cases:	,	B. Diversity Jurisdiction Cases:	
☐ Indemnity Contract, Marine Con	ntract, and All Other Contracts	1. Insurance Contract and Other Contracts	
□ FELA		2. Airplane Personal Injury	
☐ Jones Act-Personal Injury		3. Assault, Defamation	
Antitrust			
		_	
Patent		5. Motor Vehicle Personal Injury	
Labor-Management Relations		6. Other Personal Injury (Please specify)	
. Civil Rights		7. Products Liability	
. Habeas Corpus		8. Products Liability — Asbestos	
Securities Act(s) Cases		All other Diversity Cases	
Social Security Review Cases		(Please specify)	
All other Federal Question Case (Please specify) FDCPA 15 U.S.C	es . 1692		
	ARBITRATION CE	_	
Melissa Pirillo	(Check Appropria , counsel of record do hereby		
		e and belief, the damages recoverable in this civil action case excee	d the sum
f \$150,000.00 exclusive of interest and cos	ts;		
Relief other than monetary damages	is sought.		
TE:June 19, 2015		314730	
	Attorney-at-Law	Attorney I.D.#	_
NOT	E: A trial de novo will be a trial by jury only i	•	
	case is not related to any case now pending	or within one year previously terminated action in this court	
ccept as noted ahove.	11/		
ATE: June 19, 2015		314730	

JUN 1 2 2015



Fernando J Padilla

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

CIVIL ACTION

	v.	: NO.	5 5531
Monarch Recovery Mana		:	
In accordance with the C plaintiff shall complete a of filing the complaint an reverse side of this form, said designation, that defined serve on the plaintiff and	ivil Justice Expense and Delay R Case Management Track Design Id serve a copy on all defendants In the event that a defendant do endant shall, with its first appear all other parties, a Case Manage hich that defendant believes the o	nation Form in all civil . (See § 1:03 of the plates not agree with the parties, submit to the clement Track Designation	cases at the time in set forth on the claintiff regarding ork of court and on Form
SELECT ONE OF THI	E FOLLOWING CASE MANA	GEMENT TRACKS	S:
(a) Habeas Corpus – Cas	es brought under 28 U.S.C. § 22	41 through § 2255.	()
	ses requesting review of a decisi denying plaintiff Social Security		Health ()
(c) Arbitration - Cases	required to be designated for ar	bitration under Local	Civil Rule 53.2. ()
(d) Asbestos – Cases inv exposure to asbestos.	volving claims for personal injur	y or property damage	from ()
by the court. (See rev management cases.)	- Cases that do not fall into trace as complex and that need special erse side of this form for a detail	al or intense managem led explanation of spec	ent cial
(f) Standard Managemer	nt – Cases that do not fall into an	y one of the other trac	ks. (X)
June 19, 2015		P	LAINTIFF
	Attorney-at-law	Attorney	for
Date	Attorney-at-law	110001110,	101
Date (516) 203-7600	(516) 282-7878 FAX Number	_	lerslawplic.com